

Statement of

America's Community Bankers

on

**Protecting Homeowners: Preventing Abusive
Lending While Preserving Access to Credit**

before the

**Subcommittee on Housing and Community Opportunity
and
Subcommittee on Financial Institutions and Consumer Credit**

of the

Committee on Financial Services

of the

U.S. House of Representatives

on

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America's Community Bankers

Washington, DC

America's Community Bankers appreciates this opportunity to submit a statement on the problem of predatory lending practices. ACB members include state and federally chartered savings institutions and commercial banks. Our members are both stock- and mutually owned. As community bankers, many are specialists in mortgage lending.

Position Statement on Predatory Lending

ACB is committed to ensuring that all Americans have fair and equitable access to credit, and that consumers have the necessary skills to make wise credit and other financial decisions. ACB also supports the development of a federal legislative response, such as the bipartisan Ney-Lucas proposal, "Responsible Lending Act"- H.R. 833, that would establish national uniform standards to combat predatory lending practices, while avoiding a patchwork of state and local legislative responses that could disrupt the critical national marketplace for real estate credit.

Responsible subprime lending is an important way to offer more Americans greater access to credit. Policy makers should not impose new laws and regulations that inaccurately label subprime loans as "predatory" or that stigmatize legitimate loan terms.

ACB believes that Congress should vigorously pursue national, uniform anti-predatory lending standards. This type of standard would create uniformity and ensure consistency among state-based mortgage lending initiatives. A uniform national standard would have significant additional benefits for consumers, including:

- Curbing abusive and deceptive practices by lenders who shop for venues that lack tough laws. Once exposed, these scam artists shut down, find another location and open under another name.
- Promoting efforts to educate consumers. The best defense against predatory lending is a well-informed consumer in a competitive marketplace.
- Preserving the efficiencies of a national market, which reduces costs for both consumers and businesses, improves consumer access to credit, permits lenders to reward good performance with lower rates and facilitates credit to higher risk borrowers.

ACB also urges that the following steps be taken to advance financial literacy and combat predatory lending practices:

- Interested affected parties should take steps to increase the levels of financial literacy among all Americans, including specifically working to increase and expand homeownership education and credit counseling;
- Consumer education programs should incorporate information regarding how to avoid identity theft, a key element of some abusive consumer credit practices, including regular and routine management of one's credit files;

- Among school-aged children, interested affected parties should work cooperatively to improve basic financial education at every level in the education process, including how to properly save money as well as avoid the various pitfalls of obtaining too much credit;
- Enforcement agencies should vigorously enforce existing laws and focus their attention on lenders who are not subject to examinations or supervision, rather than applying new restrictions on regulated lenders;
- The federal banking agencies should increase support of their supervised institutions' financial literacy efforts;
- The Department of Housing and Urban Development should continue its mortgage disclosure reform efforts, including mortgage broker disclosure, and work to develop meaningful changes that result in improved and simplified mortgage transaction disclosures for consumers.
- HUD, the Federal Reserve Board and others should explore ways to improve and simplify disclosures and field-test proposed revisions.

Explanation

Members of ACB are community-based lenders dedicated to strengthening America's communities by meeting the financial needs of customers fairly and efficiently and by fostering housing opportunities and equal credit opportunity. Communities are supported by providing housing finance, consumer credit and small business lending and other financial services that contribute to economic vitality and job creation. Predatory lending practices harm communities.

An informed, educated consumer is better able to make financial decisions and avoid predatory, unscrupulous providers of financial services. Education and counseling remain an important way to prevent predatory lending abuses.

In 2002, ACB launched *Money Rules*, a financial literacy program designed to provide community bankers with materials for their financial education efforts. Since inception, we have distributed one million brochures. In addition, ACB is working with a variety of federal agencies and private organizations, including the Federal Deposit Insurance Corporation, Junior Achievement, Operation HOPE, Inc., and the Jump\$tart Coalition for Personal Financial Literacy, to help educate people about such topics as the importance of saving, establishing a good credit history and how to borrow wisely. These initiatives follow earlier efforts in the area of homeownership education and counseling. ACB was a founding member of the American Homeowner Education and Counseling Institute, and remains committed to improving the quality, effectiveness and impact of homeowner education and counseling.

Policy makers should thoroughly study why the existing disclosure regime is ineffective and what alternatives might work. Those efforts should concentrate on simpler, "plain English" disclosures that focus consumer attention on relevant information. In particular, ACB generally supports the reform efforts of the Department of Housing and Urban Development that might

ensure that consumers are given accurate, timely and simplified disclosures on which to base their housing finance decisions.

Policy makers should distinguish between “subprime lending” programs and “predatory lending” practices. These terms are often mistakenly used interchangeably. Subprime lending provides financing to individuals with credit blemishes or other risk factors, though at somewhat higher rates or under stricter terms than are available to more credit worthy borrowers. The rise of subprime lending has given many previously underserved borrowers access to credit.

ACB also believes that vigorous enforcement of existing laws with respect to unsupervised lenders is critical. The joint report by the Federal Reserve Board and the Department of Housing and Urban Development issued in 1998 acknowledged this, stating: “Abusive mortgage loans are not generally a problem among financial institutions that are subject to regular examination by federal and state banking agencies. Abuses occur mainly with mortgage creditors and brokers that are not subject to direct supervision.”

At the same time, ACB believes that, absent Congressional action to establish uniformity, ongoing initiatives across the country are leading to a patchwork of well-intentioned but overly burdensome state and local laws and regulations that are not benefiting consumers and are forcing banks out of the market.

Conclusion

ACB strongly supports the Committee’s effort on this very important issue. We look forward to working with you and your staff as you craft legislation to accomplish this goal.